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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/068,332	02/05/2002	Stuart Baird Revill	9100-8	8820
30448	7590	10/18/2005		
AKERMAN SENTERFITT P.O. BOX 3188 WEST PALM BEACH, FL 33402-3188			EXAMINER PATTERSON, MARC A	
			ART UNIT	PAPER NUMBER
			1772	
DATE MAILED: 10/18/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/068,332

Applicant(s)

REVILL, STUART BAIRD

Examiner

Marc A. Patterson

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1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

**WITHDRAWN REJECTIONS**

1. The 35 U.S.C. 102(b) rejection of Claims 1 – 3 as being anticipated by Maar (German Patent 2546278 B1), of record on page 2 of the previous Action, is withdrawn.

**NEW REJECTIONS**

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 – 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maar (German Patent 2546278 B1) in view of Mintz et al (U.S. Patent No. 5,413,148).

With regard to Claim 1, Maar discloses a sleeve (flexible tube; page 9, line 2, of second paragraph of English translation) of netting (a net; page 10, lines 4 – 5 of first paragraph of English translation) that is elasticated (it consists of threads of a highly elastic material; page 10, lines 12 – 14 of English translation) which is provided with a seam (a connection between longitudinal threads '4' and an opposite mesh '2' by a pull thread '7' as shown in Figure 1; page 10, lines 17 – 19 of English translation) and will not become embedded in the surface of a product when it is cooked (in the condition of roasting, the net imparts only an extremely slight radial force so that the net is not pressed into the roasting crust; page 6, final line of second paragraph; page 7, lines 1 – 3 of English translation). Maar fails to disclose a seam such that

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when a product having a radius is encapsulated by the sleeve a portion of the seam will project radially relative to the product.

Mintz et al teaches the use of netting (column 3, lines 50 – 51) for the containment of a product in which the center has a larger diameter than the ends (column 4, lines 43 – 46) for the purpose of using a container that allows the product to bulge outwardly (column 4, lines 43 – 46). One of ordinary skill in the art would therefore have recognized the advantage of providing for the product of Mintz et al in Maar, which comprises a netting, depending on the desired bulging of the end product.

It therefore would have been obvious for one of ordinary skill in the art at the time Applicant's invention was made to have provided for a product in which the center has a larger diameter than the ends in Maar in order to allow the product to bulge outwardly as taught by Mintz. Maar would therefore comprise a seam such that when a product having a radius is encapsulated by the sleeve a portion of the seam will project radially relative to the product, because of the outward bulge in the center of the netting which is a projection.

With regard to Claim 2, the seam disclosed by Maar extends longitudinally of the sleeve offset from the center of the sleeve (the seam extends in the lengthwise direction of the sleeve, as shown in Figure 1, and therefore extends longitudinally; it is also offset from the center of the sleeve because it is in the wall of the sleeve, rather than being located in the center of the inside of the sleeve); the projection is a bulge, as stated above, and is therefore a small portion of the width of the sleeve, and is also isolated by the seam from the remainder of the sleeve because the seam is a connection between longitudinal threads and is therefore maintains the shape of the sleeve.

With regard to Claim 3, the seam disclosed by Maar is sewn with yarn stitches (the longitudinal threads, therefore yarns, can consist of stitch wales; page 10, line 6 of English translation) which become undone, and therefore unravel, when the pull thread, therefore also a yarn, is pulled, because the net is separated when the pull thread is pulled.

#### ANSWERS TO APPLICANT'S ARGUMENTS

4. Applicant's arguments regarding the 35 U.S.C. 102(b) rejection of Claims 1 – 3 as being anticipated by Maar (German Patent 2546278 B1), of record in the previous Action, have been considered and have been found to be persuasive. The rejection is therefore withdrawn. The new rejections above is directed to amended Claims 1 – 3.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc A Patterson whose telephone number is 571-272-1497. The examiner can normally be reached on Mon - Fri 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Marc Patterson 10/17/05*

Marc A. Patterson, PhD.

Examiner

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